



Dkt. 37690-II-1-PCT-US/JPW/MAF

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Gary A. Beaudry and Paul J. Maddon

Serial No.: 08/485,163

Group Art Unit: 1646

Filed : June 7, 1995

Examiner: E. Lazar-Wesley

For : CD4-GAMMA2 AND CD4-IgG2 CHIMERAS

1185 Avenue of the Americas  
New York, New York 10036  
June 3, 2002

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6/17/02

Assistant Commissioner for Patents  
Washington, D.C. 20231

SIR:

COMMUNICATION REQUESTING

CONSIDERATION ON THE MERITS OF A SECOND SUBMISSION AFTER FINAL  
REJECTION WITH WITHDRAWAL OF FINALITY UNDER 37 C.F.R. §1.129(a)  
AND PETITION FOR A THREE-MONTH EXTENSION OF TIME

This Communication is submitted pursuant to the provisions of 37 C.F.R. §1.129(a) to request consideration on the merits of an "Amendment In Response To December 3, 2001 Final Office Action Submitted as a Second Submission", attached hereto as Exhibit 1, and withdrawal of the finality of the December 3, 2001 Office Action.

On December 3, 2001, the United States Patent and Trademark Office issued a Final Office Action in connection with the above-identified application. A response to the December 3, 2001 Office Action was due on March 3, 2002. Applicants hereby petition for a

06/10/2002 TBESHAH1 00000038 08485163

01 FC:246 370.00 OP

06/10/2002 TBESHAH1 00000038 08485163

02 FC:217 460.00 OP

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three month extension of time to respond to the Office Action. Applicants have previously established small entity status, which is still proper. The required fee for a three (3) month extension of time for a small entity is FOUR HUNDRED SIXTY DOLLARS (\$460.00). Applicants enclose a check in the amount of EIGHT HUNDRED THIRTY DOLLARS (\$830.00) which includes this extension fee. Accordingly, the Amendment in Response to December 3, 2001 Final Office Action Submitted as a Second Submission attached hereto as Exhibit 1 is now due June 3, 2002 and is being timely filed.

Under 37 C.F.R. §1.129(a) applicants in an application that has been pending for at least two (2) years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 C.F.R. §120, 121 and 365(c), are entitled to have a Second Submission entered and considered on the merits after final rejection if the Second Submission and the fee set forth in 37 C.F.R. §1.17(r) are filed prior to the filing of an appeal brief and prior to the abandonment of the application. The present submission is a Second Submission in that a first such Submission Under 37 C.F.R. §1.129(a) was filed on September 9, 1998 in response to an August 7, 1997 Final Office Action.

The effective filing date of the subject application is February 8, 1991. Therefore, this application has been pending for at least two (2) years as of June 8, 1995. This Communication is prior to the filing of an Appeal Brief and prior to abandonment of the subject application. Accordingly, the Amendment In Response to December 3,

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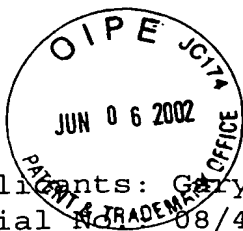
2001 Final Office Action Submitted as a Second Submission Under 37 C.F.R. §1.129(a) is being timely filed.

The fee under 37 C.F.R. §1.17(r) for consideration and entry of a second submission after final rejection is \$370.00. As stated hereinabove, applicants enclose herewith a check in the amount of \$830.00. This check also includes the \$370.00 submission fee.

Under 37 C.F.R. §1.129(a) the finality of the final rejection is automatically withdrawn upon the timely filing of the Second Submission and the payment of the fee set forth in §1.17(r). Accordingly, applicants respectfully request that the finality of the December 3, 2001 Office Action be withdrawn and the Amendment in Response to December 3, 2001 Final Office Action be considered as a Second Submission.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorneys invite the Examiner to telephone at the number provided below.

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The total fee due is believed to be \$830.00, i.e., \$460.00 for the three month extension + \$370.00 for the submission under 37 C.F.R. §1.129(a) = \$830.00. No fee, other than the enclosed \$830.00 fee is deemed necessary in connection with the filing of this submission. However, if any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

*Mark A. Farley*

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231

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